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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 4140 OF 2006

Nandkumar G. Kulkarni ... Petitioner

Vs.

Union of India & Ors. .... Respondents.

Mr. G. S. Godbole, i/b S.S. Kanetkar for the petitioner.

Mr. N.D. Sharma Advocate for respondent Nos.1 & 3.

Mrs. S.S. Bhende, AGP for respondent No.2.

CORAM: F.I. REBELLO,
AND
R. V. MORE, JJ.

DATE : FEBRUARY 2, 2007.

P.C.:

. The land has been acquired for building (four lanning), maintenance, management and operation of National Highway No.4, including the bypass Km.725.000 to 797.000 of Khedshivpur. The petitioner’s land falls on the part of the said acquisition. In terms of the provisions of the National Highways Act 1956 publication has to be in the Government Gazette and in two local newspaper, one of which must be in the vernacular language. The respondents have complied with the

said requirements.

2. The grievance of the petitioner is that no personal notice was given to him though the report submitted by the SLAO indicates that notice was given. Nothing has been pointed out to us whereby under the Act or Rules, a personal notice is required to be served on the land holder. Apart from that in the report submitted by the Special Land Acquisition Officer, it is also indicated that it was published in the newspaper and conspicuous space in the village on 14-1-2006. In other words, the procedure for publication has been complied with. We, therefore, cannot accept the contention urged on behalf of the petitioner, that he had no notice of the proceeding. That contention, therefore, must be rejected.

3. The report indicates that the notice was served on the son of adjoining land holder. Nothing has been pointed out to us that such notice is required either under the Act or the Rules. Acquisition therefore cannot be said to be vitiated on that count.

4. The other contention is that publication in

the two newspaper are not the newspapers circulated in the locality. That would be a disputed question of fact. The publication was done in the English daily "Maharashta Herald" and in Marathi daily "Pune District Saanj Samachar". That contention therefore, cannot be accepted.

5. There is no challenge on the ground that acquisition is arbitrary or mala fide. Once declaration is issued, there is a presumption that the land is acquired for the public purpose which was notified. Once that be the case, this would not be a fit case to exercise for us to exercise our extra ordinary jurisdiction. The learned counsel for the petitioner prayed for continuation of interim relief. In our opinion, as the acquisition is for the High way, a public project cannot be stayed. The prayer for interim relief is therefore rejected. The petition is therefore, disposed off.

5. Ad-interim relief stands vacated.

Sd/- Sd/-

[**R. V. MORE, J.]** **[F.I. REBELLO,J.]**